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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/674,913	05/25/2001	Gustav Gaudernack	1702.401600	7022

5514 7590 06/02/2003

FITZPATRICK CELLA HARPER & SCINTO  
30 ROCKEFELLER PLAZA  
NEW YORK, NY 10112

EXAMINER

NICHOLS, CHRISTOPHER J

ART UNIT	PAPER NUMBER
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1647

DATE MAILED: 06/02/2003

18

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/674,913

Applicant(s)

GAUDERNACK ET AL.

Examiner

Christopher Nichols, Ph.D.

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 04 March 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 58-61 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 59 and 61 is/are allowed.
- 6) ☒ Claim(s) 58 and 60 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

## **DETAILED ACTION**

### ***Continued Prosecution Application***

1. The request filed on 4 March 2003 for a Continued Prosecution Application (CPA) under 37 CFR 1.53(d) based on parent Application No. 09/674913 is acceptable and a CPA has been established. An action on the CPA follows.

### ***Status of Application, Amendments, and/or Claims***

2. A telephone interview with Hein Chen clarified that the CPA was filed to switch inventions from SEQ ID NO: 2 to SEQ ID NO: 1 and to add the new claims (58 and 59).
3. The Declaration under 37 C.F.R. §1.132 was received on 30 April 2003 (Paper No.) and has been taken into full consideration.
4. An Interview Summary has been filed (Paper No. 16). A copy was provided to the Applicant's representative at the time of the interview (10 April 2003).
5. The Preliminary Amendment filed 30 April 2003 (Paper No. 17) has been received and entered in full. Claims 27-57 have been cancelled and claims 60-61 have been added.
6. Claims 58-61 are under examination.

### ***Title***

7. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.
8. The following title is suggested: IMMUNOGENIC BETA AMYLOID PEPTIDE

***Specification***

9. The Specification is objected to because of the following informalities: "deposites" is misspelled (pp. 12 line 2). Appropriate correction is required.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

10. Claims 58 and 60 are rejected under 35 U.S.C. 102(e) as being anticipated by US 5958684 (28 September 1999) Van Leeuwen et al. filed 02 October 1996.
11. US 5958684 teaches an amino acid sequence which shares 100% sequence homology with SEQ ID NO: 2 of the instant application between residues 7 and 25 thus meeting the limitations of claims 58 (SEQ ID NO: 61, Col. 81-82). US 5958684 also teaches a composition of SEQ ID NO: 61 thus meeting the limitations of claim 60 (Col. 18 lines 50-63; Col. 31 lines 40-55; Col. 32 lines 24-40).

***Summary***

12. Claims 58 and 60 are hereby rejected.
13. Claims 59 and 61 are allowable.

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***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Christopher Nichols, Ph.D.** whose telephone number is 703-305-3955. The examiner can normally be reached on Monday through Friday, 8:00AM to 5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Gary Kunz, Ph.D.** can be reached on 703-308-4623. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9306 for regular communications and 703-872-9307 for After Final communications. The fax phone numbers for the customer service center is 703-872-9305.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0196.

*Elizabeth C. Kemmerer*

CJN  
May 14, 2003

**ELIZABETH KEMMERER  
PRIMARY EXAMINER**